

Statement

of the

COUNCIL FOR COURT EXCELLENCE

to the

U.S. HOUSE OF REPRESENTATIVES APPROPRIATIONS

DISTRICT OF COLUMBIA SUBCOMMITTEE

regarding the

DISTRICT OF COLUMBIA

METROPOLITAN POLICE DEPARTMENT

POLICE OVERTIME REFORM ISSUE

April 4, 2001

In March 2001 the Council for Court Excellence completed a major fifteen month research study examining resource management issues within the District of Columbia criminal justice system with special emphasis on Metropolitan Police Department police officer overtime for court and prosecutorial hearings. We are pleased to provide the Committee this formal statement regarding some of the major findings and recommendations from that report. The study was undertaken by the Council for Court Excellence in conjunction with The Justice Management Institute under the financial sponsorship and direction of the D.C. Criminal Justice Coordinating Council. A copy of our two hundred page final report will be provided to the U.S. House of Representatives

Appropriations District of Columbia Subcommittee under separate cover.

The Council for Court Excellence is a District of Columbia-based non-partisan civic organization that works to improve the administration of justice in the local and federal courts and related agencies in the Washington, D.C. area. For nearly 20 years, the Council for Court Excellence has been a unique resource for our community, bringing together members of the civic, legal, judicial, and business communities to work in common purpose to improve the administration of justice. No judicial member of the Council for Court Excellence participated in or contributed to the formulation of this testimony.

This Council for Court Excellence statement is limited to reporting on a major federal grant-funded research study the Council undertook over the past 15 months which examined resource issues in the District's criminal justice system from the point of arrest through the disposition of cases by the D.C. Superior Court. The study focused

particularly on D.C. Metropolitan Police Department officer court and prosecutorial proceeding overtime. The final report, completed in March 2001 (*A Final Report and Recommendations on Management of District of Columbia Criminal Justice Resources*), describes the major findings, and policy issues, and offers a range of specific proposals for reform. It is our understanding that the Metropolitan Police Department, the D.C. Superior Court, the D.C. Office of the Corporation Counsel, the Executive Office of the Mayor, and the other agencies of the D.C. Criminal Justice Coordinating Council, are framing several implementation projects to address certain of the Final Report=s recommendations. This statement addresses the recommendations within the March 2001 CCE/JMI Final Report which the D.C. Metropolitan Police Department may be in a position to implement.

We will now highlight some of the major findings of the study. Our study of police overtime found that in a two-week period in September 2000, an average of 670 officers spent nearly 2,000 hours per day appearing for criminal case proceedings either at the United States Attorneys Office, the D.C. Office of the Corporation Counsel, or in the D.C.

Superior Court. The estimated overtime expenditures for this two week period alone were \$823,550. In calendar year 2000, approximately \$10,000,000 - or 247,200 hours - were spent by D.C. MPD police officers in prosecutorial proceedings such as papering, witness conferences, and grand jury appearances, or in court proceedings, such as for trials. In total we found that 45% of such police officer overtime is spent in prosecutorial proceedings and 55% in court proceedings.( The calendar year 2000 cost and time estimates referenced above from our research are within 4% of actual audit data generated by the Metropolitan Police Department regarding police officer time expenditures for prosecutorial and court-related functions for the same calendar year.)

The amount of time and money expended by the DC MPD in 2000 for prosecutorial and court- related overtime purposes were not insignificant, in either public safety terms or in the level of public dollars expended. A major finding from our independent research study in the area of prosecutorial and court-related police overtime, as distinguished from other types of MPD overtime, is that the Metropolitan Police

Department has almost no control over how many of its officers appear for criminal case prosecutions, or for how many hours or days they are off the street or in other law enforcement roles. Police officers must appear at criminal case proceedings when notified by the prosecutor, or face departmental discipline. Incidentally, our research documented that approximately 98% of police officers show up for prosecutorial proceedings and court hearings when summoned. The practices of the United States Attorney=s Office and the D.C. Office of Corporation Counsel in over-summoning police officers for criminal case proceedings, and of the D.C. Superior Court in taking too long to dispose of criminal cases, directly increases the Metropolitan Police Department overtime costs, and appreciably reduces the number of police officers on the street on a daily basis.

Can public safety be improved, and in turn can police officer overtime costs for these activities be brought under better control? The answer is clearly yes. How can this be accomplished? One example where prosecutors in D.C. over-summons police officers for criminal case proceedings occurs in felony trials. In felony trials our research

documented that only 25% of, or 2 of 8, officers appearing at felony trials actually testify.

In some circumstances, there may be a need to require the presence in court of all police officers directly or indirectly involved in a criminal case. A more common practice in other jurisdictions, such as in King County, Seattle Washington, and in San Francisco, California, is to require the presence of up to two officers, placing all other police officers in a stand-by status. These jurisdictions have found that typically, officers placed on stand-by are not used. It is under the rubrics of increasing public safety and saving money that many communities across the country have worked to better manage their limited law enforcement resources.

When compared to other jurisdictions, DC MPD overall police officer overtime expenditures are not markedly higher especially when one factors in major national seat of government-related police overtime as for demonstrations, inaugurations and the like.

However, with the proper implementation of better management practices by the several key criminal justice agencies including the Police Department, the D.C. Superior Court, the

United States Attorney's Office, and the D.C. Office of the Corporation Counsel, the District can do much better.

On a bench marking basis we learned in our research that cost savings of 30% or more in the specific area of court and prosecutorial-related police officer overtime have been realized in other jurisdictions through better practices by the prosecutors, courts, and police agencies. The public safety impact of having more officers on the street and not in court or at the D.A.'s office is also noteworthy.

Currently, the above referenced agencies of the District of Columbia justice system do not have in place many of the more commonly utilized overtime management tools of other jurisdictions, such as stand-by systems, on-call systems, or dedicated trial days for police officers.

The question remains as to what can be done to better manage police officer

overtime for court and prosecutorial proceedings? The Final Report of the Council for Court Excellence and The Justice Management Institute study recommends several strategies to the D.C. Criminal Justice Coordinating Council including:

1. Promptly strengthening and expanding the MPD Court Liaison Division's oversight role and daily case coordination relationships with the United States Attorney's Office, with the D.C. Office of the Corporation Counsel, and with the D.C. Superior Court.
2. Moving the MPD Court Liaison Division back into the D.C. Courthouse to increase the daily oversight of officers at the courthouse.
3. Exploring the adoption of a Key Police Officer witness system for each felony and misdemeanor case whereby, for most prosecutorial and judicial proceedings, no more than two police officers would be routinely notified for any proceeding; all other officers would be placed on a stand-by status and not customarily summoned to appear.
4. Instituting a pilot criminal case coordinator system in the Superior Court Criminal Division to monitor case management changes on a daily basis, and to update the MPD and others of late-developing judicial case-related actions.
5. Establishing a program to monitor MPD officer time expended by court, charge, and proceeding type on at least a monthly basis in either the D.C. Criminal Justice

Coordinating Council, or alternatively in the D.C. Office of Budget and Planning.

This initiative should be done using MPD Court Liaison Division=s existing monthly appearance reports, the current capabilities of the MPD Research Division to break down officer appearances, and case data generated by the D.C. Superior Court.

In concluding this formal statement we note that the above recommendations and the others set forth in the full report are not self-executing. We concluded in our research report that the D.C. Criminal Justice Coordinating Council is the most appropriate vehicle for bringing all of the D.C. criminal justice system agencies to the same table to address this longstanding problem which annually wastes millions of dollars in available local D.C. taxpayer resources. If properly focused and properly supported the Criminal Justice Coordinating Council is the appropriate inter-governmental forum in the District of Columbia to improve the longstanding police overtime problem in this area. Regrettably, the CJCC is currently in a state of limbo. We would encourage the U.S. House of Representatives Appropriations District of Columbia Subcommittee and the D.C. Council to consider the

formal establishment and implementation of the CJCC, perhaps through legislative action by the D.C. Council or the Congress. This concludes our prepared statement.